O. Food Grains

1951 **File No.** Movement/51
20/51

Legal Department

G **BRANCH**

Subject:— Opinions on the Bombay Food Grains Regulation of Movement and Sale) Order, 1948

(P) 3/(C)

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Legal Department.

The Police Officer concerned has filed a complaint not only for breach of Civil Supplies Department Order No.925/F.G./II dated the 16th December 1948 but also for breaches of conditions 9 and 6 of the wholesale and retail licences held by Kundanmal (vide p. 3 of Police Inquiry File I) It is not, however, clear as to whether the Magistrate has framed a charge in respect of the first order dated 16th December 1948 viz. the Bombay Foodgrains (Regulation of Movement and Sale) Order, 1948 only or also for the breach of the conditions of the licences. If the charge is only in respect of the first order, the view taken by the Civil Supplies Department that clause 3 of that order did not apply to Kundanmal during the relevant period is correct and the prosecution deserves to be withdrawn. However, if there is the other charge also viz. of breach of the conditions of his licences both wholesale and retail, then there is a fair chance of success as directions were given to the licence holders prohibiting them from making any fresh purchases under press note dated 17th December 1948, which was issued in pursuance of the Government Circular No.925/II dated the 16th December 1948. How far such a press note would be treated as direction and whether the accused had notice of it or not is a matter for the Court to decide. Besides the fact that the accused had sent in a return would weigh with the Magistrate in treating the offence as technical. Prosecution may therefore be continued if the accused is charged with the 2nd charge also otherwise it would be advisable to withdraw the prosecution.

Id/-

Additional Secretary to Government.

U.R. to C.S.D., No. G-102, dated the 19th March 1951.

S.I./17.7.56.-40

Legal Department.

Submitted with reference to the Development Department note at pp.11-14, ante.

2. The point for R.L.A's consideration is whether the term 'grains and pulses' in G.N.D.D. No.W.M.A.1051 dated the 30th April 1951 also includes articles like 'churmure, 'poha', 'gram' etc. The subject matter perteins to'G' Branch; hence the papers may be transferred to that branch for disposal.

Id/-/ 10/8/

By G.N.D.D. No.WMA 1051 dated the 30th April 1951 Govt. has declared under sub-section (1) of sec. 11A of the Bombay Weights and Measures Act, 1932, that among other things, for trades in "grains and pulses ~~x~~ exceeding ½ seer" certain standard weights shall ~~have~~ be used. Some retail dealers in Churmura, Poha, etc. of Sholapur have now made a representation to Govt. requesting that they may be allowed to sell these things by measure instead of by weight as required by the above notification.

D.D. is of the opinion that the articles referred to have not been specifically included in the notification and unless the terms "grains and pulses" include churmura, Poha etc. these dealers are not affected. The Industries Deptt. also thinks that the notification in question does not relate to articles like churmura, poha etc. which are regarded as parched grains. D.D. has, however, referred the papers to the R.L.A. for ascertaining the position.

S.L./17.7.56. 4c.

Legal Department.

The view taken by the Director of Industries at page 13 ante is correct. The expression 'grain' is confined popularly to seed of cereal plants. Pulses are not included in the expression 'grain' as they belong to the leguminous family of plants (I.L.R. 58 Cal. 955). The expressions 'grains and pulses' appear to have been used in the Development Department Notification No. WMA 1051, dated the 30th April 1951 with reference to their natural or raw state and Poha and Kurmura which are parched grains and fried grams could not be covered by those expressions. The said Notification would not therefore apply to these three articles.

Id/-

Additional Secretary to Government.

U.R. to D.D., No. G-421, dated the 12th September 1951.

S.I./17.7.56. 4c.